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**Request for City Council Committee Action  
From the City Attorney's Office**

Date: November 4, 2002  
To: Ways and Means/Budget Committee  
Referral to: None

Subject: Lisa Davis v. City of Minneapolis

Recommendation: That the City Council approve settlement of this case by the payment of \$14,713.62 to Lisa Davis and her attorney, Charles Slane, from fund/org. 690 150 1500 4000.

Previous Directives: None

Prepared by: Edward Backstrom

Phone: 612-673-2072

Approved by:

  
Jay M. Heffern  
City Attorney

Presenter in Committee: Jay M. Heffern

**Financial Impact** (Check those that apply)

- ☐ No financial impact - or - Action is within current department budget.  
(If checked, go directly to Background/Supporting Information)
- ☐ Action requires an appropriation increase to the Capital Budget
- ☐ Action requires an appropriation increase to the Operating Budget
- ☐ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☒ Other financial impact (Explain): Fund/Org. 690 150 1500 4000
- ☐ Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact:**

City Goals: Build Community

**Background/Supporting Information**

This matter is currently scheduled for trial in Hennepin County District Court before Judge Alan Oliesky.

This is an intersection traffic accident which occurred at 26<sup>th</sup> Street and Emerson Avenue South on March 13, 2000 around 8:20AM. The plaintiff, Lisa Davis, lived within a block of the intersection and was proceeding to work. The city vehicle was proceeded westbound on W. 26<sup>th</sup> Street. The driver, James Daher, was coming down a hill as he approached the intersection at Emerson Av. Daher claims the light was green as he approached, but changed to yellow when he entered the intersection. The plaintiff claims that she was proceeding northbound on Emerson and claims that she had stopped and was waiting for the light controlling the intersection to change to green. When the light changed she proceeded and was struck in the passenger side by the city vehicle. Visibility is limited in all directions at this intersection.

There is an independent witness who has stated city vehicle was speeding as it approached the intersection. He gave two statements and in the first he did not state whether the light was red for the city vehicle when it entered the intersection. In a later statement he stated that the light changed to red just as the city truck entered the intersection and that the light was green for Davis as she entered. The witness stated that Davis' windshield was partially frosted over and that her vision may have been somewhat impaired. He also contradicts Davis' testimony that she was stopped at the light before she started into the intersection on the green. He states that she was going 20 to 25 MPH as she approached the intersection and entered into the intersection without stopping because she had the green light.

In addition to the problem with the independent witness who places fault on the city, several other facts are also problematic. Prior to the accident Daher noticed that the brake lights on the heavy trailer being pulled by his truck did not work. As a result he had taken the truck and trailer for an inspection by the driver's supervisor. The driver's supervisor indicated that Daher should proceed to the job site, even though Daher was not sure the brakes were working. He however claims that he had no trouble with the brakes. In addition the City driver was suspended after this accident because he had cocaine in his system.

As a result of the accident the plaintiff was taken by ambulance to HCMC where she was diagnosed with a concussion and a strain of her neck and low back. She subsequently had surgery for glass that had been imbedded in her hand as a result of the accident. She continued to experience neck and low back problems and received treatment from Kenwood Chiropractic Clinic. She moved to Kansas City where she treated with several Chiropractors and improved. However, she claims that her neck continued to bother her. As a result she followed the recommendation of a doctor at the University of Kansas that she have breast reduction surgery to relieve pressure on her neck.

The plaintiff sustained \$8,096 in medical bills which were paid by her no fault carrier. She is claiming further special damages of \$10, 820.14 for other medical expenses which include a MRI scan, chiropractic care, and \$9,000 for breast reduction surgery. She also has a wage loss claim of \$1500.

The case was submitted to Hennepin County Arbitration, which is non-binding, and the arbitrator found that Davis was damaged in the amount of \$25, 406.14. This amount did not include the cost of the breast reduction surgery. He found that the city was 85% at fault and Davis was 15%, thus awarding plaintiff \$14,713.62 in damages plus costs. Plaintiff's attorney requested an award of \$32,320.84 at the arbitration hearing.

Based on the above considerations a settlement has been reached in this matter wherein Ms. Davis has agreed to settle the lawsuit for \$14,713.62. This amount includes the taxable costs to which plaintiff would have been entitled pursuant to the arbitrator's award. This settlement has been reviewed and approved by the Minneapolis City Attorney's office litigation committee.